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October 15, 2020

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference log data from both parties. I continue to have active discussions with the Federal Defenders, Inc. and their

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counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the parties, MCC scheduled 129 calls between October 8 and October 14, 2020.² 117 calls were completed, three were attempted but not completed, and nine were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders report some privacy and technical issues this week.³

B. MDC

According to the information received from the parties, MDC scheduled 190 calls between October 8 and October 14, 2020. 175 calls were completed, nine were attempted but not completed, two were rescheduled or cancelled by the requesting attorney, and four were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders report some technical issues this week.

¹ I held a joint mediation call with the Federal Defenders and their counsel and the government today, October 15, 2020.

² This week, and going forward, I will report call and VTC data using information received from both the Federal Defenders and the government. Using the combined data will provide the Court with a more complete and accurate picture of the status of attorney-client calls at the MDC and MCC.

³ Due to staffing issues, Federal Defenders did not report overflow data this week for either institution.

III. Videoconferencing

A. MCC

According to the information received from the parties, MCC scheduled 21 videoconferences between October 8 and October 14, 2020. 19 were completed as scheduled and two were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders report some technical issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 43 videoconferences between October 8 and October 14, 2020. 35 were completed as scheduled, one was attempted but not completed, four were cancelled or rescheduled by the requesting attorney, and three were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders report some privacy and technical issues this week.

IV. In Person Visitation

The parties continue to discuss issues arising out of in person visiting. In particular, they continue discussing ways to provide remote access on holidays for counsel unable to visit in person as well as ways to improve the email scheduling system. The MCC had been utilizing an online scheduling system. Unfortunately, they have had to discontinue its use and return to an email scheduling system. I will engage with BOP leadership on this issue to determine if their position can be reversed. The MDC is conducting additional HVAC testing in all of its visiting rooms, with the results to be provided to plaintiffs and their expert when available. The parties are discussing the need for an additional test. While the MDC's quarantine system post-court will continue, the institution has committed to ensuring that inmates have their legal papers and files while in quarantine. The institution is also looking into the discovery review issues raised by plaintiffs. I will continue working with the parties on these and any other open issues.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
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